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ABSTRACT

Resistance to the development of a Bureau of Indian Affairs (BIA) educational funding formula, as part of a larger BIA reorganization program, comes from many sources: BIA offices at all levels, contract schools and Indian tribes themselves. BIA agencies might support a reasonable funding formula but wouldn't contradict their Area Office on the matter. The Area Offices, who control all educational action except national policy and appropriations, have developed great authority and political power and resist anything which might erode it. The Central Office doesn't want to give up political "flexibility", nor does it feel certain that every BIA school will gain from formula funding. The BIA contract schools are wary of jeopardizing their current funding advantages. The tribes, conservative when it comes to change and fearing the end of federal responsibility for the Indians, resist anything which might fragment the BIA. The BIA should listen to comments from those now receiving funding rather than make a hasty decision on reorganization. Also, the structural benefits of BIA education should be used to advantage. Most importantly, the BIA should establish a structure and system in which reform can occur. (SB)

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INDIAN EDUCATION TRAINING, INC.

Issues Related to a New BIA Funding Formula

Report prepared for
Education Commission of the States
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ISSUES RELATED TO A NEW BIA FUNDING FORMULA

I. Role of the BIA Area Offices

The 1950 report of the Commissioner of the Bureau of Indian Affairs to Congress was concerned primarily with two issues: (1) The creation of BIA Area Offices (2) Testing the feasibility of transferring responsibility for Indians from the federal government to the states.

When people now discuss the termination years, they refer to the Eisenhower Administration policy. This is inaccurate. What the Eisenhower Administration did was carry out the policy that had begun three years earlier.

The BIA created Area Offices, it said, so as to make themselves more accessible to people in the field. They neither linked the creation of the offices with termination nor did they claim that they would help the Central Office of the Bureau, but reports for the next ten years described how various Area Offices had persuaded states to take over services that had previously been the sole responsibility of the Bureau.

These reports were in no way defensive or apologetic. All service transfers were described as desirable accomplishments. It could not have been otherwise. Whatever BIA Officials might have felt privately about the possibilities of losing their own positions, their reports had to reflect and occasionally amplify the termination spirit. They used the new Area Offices most effectively in running a decade long going out of business campaign.

Termination was politically possible because there was a strong coalition of legislators from the states with large reservations who wanted to get at Indian resources and liberals from states without Indians who felt they were saving their unfortunate red brethern from concentration camps which had cunningly been glossed over with the euphemistic term "reservation."

Because of the early history of the BIA Area Offices, they have always held power and control well beyond that of their counterparts in other federal regional offices. Other federal officials are in their regional offices both to make services more accessible and to function as an extension of federal authority. The BIA Area Offices were put in place to negotiate the transfer of federal authority. Within ten years, the politically astute Area Offices had set up their own congressional power bases in the states in which they were located. The Indians themselves might still have to deal with the BIA Washington Office to get the results they wanted, but the representatives of local, non-Indian governments found they could get what they wanted more efficiently through their Area Offices.

For all the early talk of accessibility as a justification for the Area Offices, the real service unit of accessibility was and still is the agency office. Because the Area Offices were designed for scuttling purposes, they had unusually broad policy authorities that the Central Office found impossible to recall even after the termination policy ended.

One compelling example: Interior regulations, like any cabinet level regulations, can be waived by the Secretary of Interior. In the Interior Department, that authority has been delegated to the Commissioner of the BIA, now the Assistant Secretary for Indian Affairs. But in the BIA that authority is further delegated down to the individual Area Directors for general operating purposes. The Assistant Secretary may, of course, override just as the Secretary can override the Assistant Secretary, but it means that a state school superintendent, unhappy with BIA Johnson O'Malley regulations, for example, will take his case to the local Area Director and not bother with Washington unless and until Washington intervenes. In most cases, Washington will not.

The Indian Self-Determination Act of 1975 reaffirms the authority of the Area Offices. Any Indian tribe wishing to contract for federal programs signs with the Area Office. Washington is involved only when the proposed program crosses Area boundaries. On all other contracts, they function for the purpose of higher administrative appeal. In practice, most decisions are bounced back to the Areas.

In recent years, as the tribes have become more sophisticated and more assertive, the Area Offices have found themselves frequently negotiating between competing tribal interests and unified tribal interests against those of state and local agencies. Their goal in such situtations is a traditional one: please everyone, and if that's not possible, give the impression that you would if you could. Area Offices actively avoid any open negotiations between competing interests and are able to get by with this to a remarkable degree, because rarely do the representatives of those interests understand clearly where the Area Office authority begins and ends. Thus, an Area Office can usually cover itself by saying, "I agree with you completely, but Washington tells us we can't".

The budget process is an excellent example of how this works. Tribal groups are called into the Area Offices to outline their priorities for the next fiscal year. The Area Officials simply pass on all requests and information to the Central Office and therefore bear no responsibility for the inevitable short fall. They do, however, control whatever funding does come in and are therefore able to deliver extra funding here and there among some of the tribes in their domain.

BIA Agencies that do well under their Area distribution system have no complaint. Agencies that do not receive what they consider a fair share of funding or attention are understandably reluctant to challenge the Area Office

publicly both because they don't want to get into an adversary situation with their controlling authority and because they don't want to admit to their Indian constituents within the agency that they're unable to deliver. It is easier and safer to join with the Area Offices and blame any cutbacks on Washington. In summary, the Area Offices have sufficient authority to rally their Indian troops against the Washington Office; the agencies within the Area cannot follow a comparable strategy without suffering consequences.

An obvious solution here might be that the BIA Central Office could easily end this by limiting the powers of the Area Office. After all, it is the Assistant Secretary who selects the Area Director in the first place and he or she therefore will be, if not actively loyal, at least under control.

Area Directors are protected by Civil Service status and can be removed only under circumstances more drastic than any of them are likely to find themselves in, and, in practice, the Assistant Secretary has to be politically cautious about his appointees because of their regional power bases.

This Spring (1978) the Assistant Secretary, Forrest Gerard, set out to fill a vacancy for the Area Director of the Albuquerque Area Office. The position had been vacant for more than eighteen months while tribes in the Area campaigned for their candidates. In Februray, the Assistant Secretary sent to the tribes a list of five individuals, all of whom qualified for the position. Nineteen of the twenty-one tribes in the Area agreed on an individual who had formerly been a governor at one of the New Mexico Pueblos. Whether or not he was by some objective standard the best choice is not important; he was unmistakably a local favorite. Note: The two tribes who voted against him were not Pueblos and they found him too local in some ways to count on their interests being met.

The Assistant Secretary ignored their near consensus and appointed a BIA Washington Official who is originally from South Dakota. There was a major, if bloodless, Pueblo revolt. All nineteen Pueblo governors appeared at his office the day the new man was to take over and announced that they opposed his appointment and would continue to oppose it.

The Assistant Secretary explained his decision by saying that appointing a man from the Area would have represented a conflict of interest.

The Pueblos were understandably astonished at this reply. The function of Area Directors has always been parochial. It's their Area against the world - including all other Areas. What the Assistant Secretary clearly wanted was someone who would consider the interests of the BIA as a Central agency.

Formally asking tribes who they want and then ignoring their choice is clearly a political mistake, but suggesting that an Area Director should be something more than a regional choice is open heresy. Senator Abourezk, the Chairman of the Senate Committee on Indian Affairs, responded to this conflict by asking the Secretary of the Interior for the resignation of the Assistant Secretary.

For at least ten years the BIA has always taken elaborate soundings to see who will be Area Director. The local people always want someone who will give them their share and then some and lead them in a fight against Washington. Washington always wants someone who has enough credits and support in the region to avoid the kind of confrontation that took place in Albuquerque, and can at the same time keep the tribes relatively happy and in line. The open acknowledgement of these conflicting perspectives has created great problems for the Assistant Secretary.

Given the structure and political dynamics of the BIA, it may be naive

to imagine that any Washington based choice will favor the Central Office for long. The man in the Area can respond to any dissatisfaction by diverting the displeasure to any one of five villians, (1) The Commissioner or Assistant Secretary (2) The Department of Interior (3) The Office of Management and Budget (4) The White House (5) Congress. These can all be named together, of course, under that great collective target, Washington. Sometimes, of course, one or all of these villians are to blame, but the point is they can successfully be called to task on decisions that are made wholly within the Area Office.

In most instances, only the BIA agency affected is in a position to document Area Office responsibility, and it goes against its self-preservation instincts to do so.

There have been times over the past ten years when tribal leaders have called for the abolition of the Area Offices, but those leaders have, without exception, been unusually influential people from relatively powerful tribes who are certain that their own Area Office won't dare retaliate.

Within the field of education, the Area Office passes on all school budgets including the agency administrative education budgets. Their approval is required for the hiring of all personnel. The Area Personnel Office decides who is qualified and who isn't within the guidelines of the Civil Service Commission. They approve or disapprove all training within their Area: they, and they alone, negotiate the contract with the BIA Teacher's Union. They decide who will be Area Education Director and that individual is under the direct supervision of the Area Director and no one else. In summary, the Area Offices control all the education action except national policy and appropriations.

As of this writing, the BIA Handicapped Education plan for fiscal year

1979 has not been approved by the Bureau of Education for the Handicapped. Why not? Who is responsible? Each Area Office claims to have its plan in place; the problem must lie with the Central Office and all those other Area Offices. In this particular case, there is a problem with the Central Office, but the issues remain obscured because it does not occur to people on an area level to ask to see their own Area plan.

Challenging the Area Office endangers the challenger and, besides, or so goes the comfortable rationale, what difference does it make whether or not our Area does have a plan? That won't help unless Washington is straightened out.

The seemingly obvious fact that Washington, even with the best staff and best intentions, can't get straightened out without the Areas remains obscured by the intramural and regional tangles.

Albuquerque, New Mexico has 148 separate telephone listings for the Bureau of Indian Affairs. There are seventeen separate listings for the Area Office, each representing varying degrees of direct or indirect supervision over the other 131. HUD, which in other competition, ranks as a nearly unmanageable bureaucracy, has only twelve listings, the U.S. Labor Department has only seven, the Justice Department five.

If this overweight bureaucracy functioned only as an obstacle to its clients, there would soon be concerted opposition. It can deliver in clear and measurable ways.

Until 1975, when a "rational" formula was developed for the distribution of Johnson O'Malley funds, the Albuquerque Area received an average funding of $350 per pupil. They now get the national average of $110 per pupil.

Tribes in the Area now argue - understandably - that a truly rational funding formula is the one that gets you the most money.

No one on the receiving end of funding or service delivery is against Area politics when it works for them. They are always told, often, and in detail, when it does.

Finding out when it doesn't requires knowledge of the system, a controlled focus, and a strategy.

II. Resistance From Contract Schools

The contract school movement began in 1966 at the Rough Rock Demonstation School on the Navajo Reservation in Arizona.

Since that time an additional twenty-five contract schools have begun. Title XI of pending H.R. 15 theoretically offers the possibility of a contract school as an alternative to either public schools or BIA schools to any or all tribes who choose to exercise that option.

A contract school can be defined simply as a school with an Indian controlled school board that receives funding through a contract with the Bureau of Indian Affairs.

All these schools sign their contracts with the BIA Area Offices. They are eligible for any of the funding for which regular BIA schools qualify, but they are also eligible for funding under Title IV, Part A of the Indian Education Act and Johnson O'Malley. Regular BIA schools can not receive these funds.

In 1970, the Commissioner of the Bureau of Indian Affairs, Louis Bruce, began to actively encourage tribes to contract for BIA services.

The recently discovered legal basis for this was the Buy Indian Act of 1834, which allowed tribes, "when considered competent," to contract to provide services for themselves.

No tribe was officially considered sufficiently competent for the next

136 years. Whatever Commissioner Bruce's intentions, his contracting offers were greeted with caution and sometimes active suspicion. The fact that he was the first Republican appointed Commissioner since the termination days of the fifties worked against him. The entire contracting process was so new that neither the Commissioner nor his staff members could provide adequate answers when pressed for details about how it would all work, and more importantly, how much real authority and responsibility the contracting tribes would have.

In 1970, Zuni Pueblo of New Mexico contracted to run its own BIA agencies. The Bureau held them up as a model and progressive tribe. Their initial experiences, however, discouraged other tribes. While they were portrayed as completely running their own show, they were, in fact, completely subject to all BIA regulations and manual requirements. All employees retained previous Civil Service status, and they could not hire or fire a single employee.

Meanwhile, contracted education services were running a divergent course. Between 1966 and 1974, more than forty articles were published about the Rough Rock Demonstration School. Several documentary movies were made and widely shown. Senators and Congressman visited the school. People who were uncertain of the pronounciation of the word 'Navajo' were rejoicing from a great distance at the idea of these isolated people creating their own system. Virtually all Indians involved in education know at least something about the school and though the Indian responses ranged from exhaltation to scepticism, the impact of the school was enormous.

The reaction of the BIA to the school took several forms. When the school was simply being praised, they reacted by saying, in effect, "Don't forget that's our school. We let them contract for it; they operate with our

money".

When the school was being praised to the detriment of BIA schools, the general tone became defensive, and BIA Officials would say, "Of course it's an interesting school, but it's only a demonstration school. We could look that good if we had their money. They get funding from us, OEO, Foundations, even wealthy individuals, etc."

BIA disparagement of the school probably helped as much as their praise from the standpoint of prospective Indian contractors. If it made the Bureau that defensive, there must be something to it, but if successful fund raising was considered a questionable activity, there was also a basis for some caution.

Contract schools did increase but most, if not all, found themselves at least in relation to the BIA, with all the disadvantages of Rough Rock without the important public relations advantage of having been first.

Whereas regular BIA schools received funding from a variety of different departments within the Bureau, the new schools were stuck with one contract. This meant that if the Bureau had to defend themselves against the schools, and they did, they would cite misleading and inflated per pupil funding figures that were not really comparable to regular BIA Schools.

One other important factor was that community controlled schools had a potential fund raising advantage over the government schools. Even the most eccentric American philanthropic organizations have not been seriously tempted to give money to the U.S. Government. Community controlled, Indian operated schools, on the other hand, offer the possibility of an exciting educational alternative. Contract schools worry about a funding formula being used to negate the successes of their fund raising, now and in the future.

Reporting standards for contract schools have been considerably more stringent than for regular BIA Schools. The new boys (and girls) on the

block have had to prove themselves in a way that was never asked of the old timers.

Whether or not it's true, the general suspicion on the part of contract schools and potential but discouraged contractors has been that whereas the BIA has a vested interest in protecting its own schools, it has an equally strong vested interest in raising tough critical questions about those schools that have left the flock. Reporting and evaluation requirements as well as a new improved line of bureaucratic snares justify this suspicion.

Contract schools do have an advantage, though, in being on the far edge of the system. BIA School Boards are advisory only and have no legal policy making authority whatsoever. Contract School Boards can hire and fire, set general policy, and establish curricula. They are also part of a new movement and highly motivated, and frequently owe their existence to a series of successes in a knock-down, drag out fight with the BIA. It is not surprising that they might consider themselves benefitting more from something the BIA might consider a "fair funding formula."

They distrust computers. They distrust systems, manuals and policies untouched by human hands (i.e. beyond politics), because these are precisely the defensive weapons that have been used so effectively against them up to now.

Contract School Boards want the benefits of the Bureau system in the form of adequate and predictable funding, but they want to define it from their own perspective.

It is unlikely that any national funding formula, however imaginative or far reaching, could win the support, in principle, from any contract school unless and until that school had personally been consulted as to its financial needs.

What is the cost of trying out new things in education? Obviously there is no answer to that question. New and promising ideas can be free, very expensive, or somewhere in between, but the very term "cost effectiveness" is threatening to any institution that doesn't know for sure whether or not it will be in business at all next year.

The late painter, Franz Kline, said he used only black paint, not for purely aesthetic reasons but for a combination of aesthetic and economic reasons. If he had used all colors, he would have felt a need to be too cautious. He believed he could really learn how to paint only if he could get around that worry. At their most daring, the new schools want to really learn how to paint - and in color.

III. PL 93-638 Indian Self-Determination

"Indian Self-Determination" was not coined by the Nixon Administration, but it first appeared in bold type in a Presidential policy statement of 1970. Several people, by now several hundred, claim to have written the statement. It was characteristic of other Presidential policy statements in that it hoped to set a tone and offer limitless potential without passing out any blank checks.

It was a semantic error. It should not have ended in termination. Too many Indians speak English as a second language and therefore have the natural knack, ability, or drawback of hearing sounds out of their intended context. Add to this group those, who will by trained reflex, challenge any rhetoric, and you have a ready resistance.

The promise can be broken down into one simple proposition; "If you don't like the way the government has been running things for you (and you probably don't) run things yourselves".

It is very difficult to translate this into non-Indian social and political terms, but it is possible to translate some of the feelings. (1) If you don't like the way your real estate is being handled, do it yourself. (2) If you don't like the Internal Revenue's withholding system, handle your own payments. We'll let you know at the end of the year how close you came." (3) "You don't think the electrician working on your house knows what he's doing? He'll tell you everything he knows, and you do it."

This new legislative contracting authority was, by definition, a simultaneous promise and threat.

The language and the regulations of PL 93-638, extend all three.

In theory, any tribe or tribally sponsored organization can contract to provide all services previously delivered by the Department of Interior or HEW. As mentioned earlier, all BIA contracts go through the Area Office unless they overlap Area jurisdictional boundaries, a rare occurence.

The law says that the burden of proof for rejection of the contract falls on the government contractor. They can be rejected only if the proposed contract indicates that the tribe or tribal organization lacks the capacity to carry out the contract, or the proposal indicates that the plan would result in a reduction of Indian services.

Since the BIA is also directed to provide all necessary technical assistance in both the preparation and implementation of the contract, their rejection puts them in the somewhat contradictory position of carrying out an unacknowledged self-evaluation process.

Presumably, tribes will contract, not simply for control for its own sake, but to get improved services. If their BIA technical advisers know how to improve services, why haven't they done it? They can and do get around this by attacking "the system" even though it's the system to which they belong.

This may be a partial contradiction but it's not an uncommon one, and is certainly not peculiar to the Bureau of Indian Affairs.

The most vulnerable part of "the system" is the Civil Service Commission. Obviously, you can't really run your own program unless you can hire and fire. PL 93-638 handles this by allowing contractors to do just that while retaining the equivalent of Civil Service status and security for any and all individuals who have been let go by the new tribal contractor. There is no doubt that the legislation never would have passed unless it provided guarantees of job security, retirement and all other benefits for existing BIA employees.

But the contracting provisions give them security only in their general type of job at their grade level. It gives them no security at their actual place of employment in their actual job.

This has created a game of very atonal musical chairs. If a tribal group contracts for a program involving forty employees and retains only ten, those other thirty employees will then move into thirty other jobs in their Area using seniority to bump another thirty employees who will in turn bump wherever and whomever they can.

PL 93-638 proponents have tried to pretend that they were simply creating two parallel and separate employment systems, one tribal and one federal. They didn't and they couldn't have. The two systems as described in the law must intersect, conflict, and finally impose both on the people whose jobs have been contracted and the non-contractors who find themselves with the displaced or bumped employees.

Ironically, in terms of the employees themselves, this has worked the greatest hardship on lower grade, i.e., Indian employees. Administrative jobs are clustered (refer back to the 148 BIA telephone listings in Albuquerque);

service jobs may be in locations one hundred miles away. Administrative jobs, particularly in government, frequently may be described in terms that are ephemeral. Within two weeks, the next job can feel exactly like the last one. Not so with lower grade jobs. A BIA school dormitory house mother can find herself assigned to porter work at a distant administrative outpost. That is a real change in a person's life, not merely a continuation at grade level.

Described in the rosiest possible terms, a tribal contract provides a test of loyalty. Will the same people who have worked for the government for fifteen years serving Indians be willing to work directly for Indians? This will theoretically prove their true commitment or lack of it, etc., etc.

The language surrounding all this may be eloquent and inspirational, but it is frequently simple nonsense. Facts of life more measurable and quite different from commitment are being tested.

Tribal Contractors, in the name of Indian Self-Determination, are allowed to put together their own budgets. They have, in some cases, sliced salaries from between 25% and 50%. That may test a person's willingness to be imposed upon, their independent wealth, or their inability to relocate. It does not measure commitment, unless commitment is redefined as sacrifices other people should make to suit your purposes.

Ironically, many of the most active and vocal supporters of this self-determination principle are themselves Civil Service employees who sit in judgment while being themselves barricaded by fifteen years of seniority and a job that no tribe or tribal organization could ever contract for.

There is a way to extend this self-determination principle far enough to make it logical and consistent. The Bureau of Indian Affairs could

propose that a national Indian organization be permitted to draw up the national budget and set a spending level for all priorities, including administrative salaries.

It is now somewhat awkward to explain successfully to Indian employees that they will have to take a large salary cut or relocate and that this 'process' is called Indian self-determination.

This bumping and shifting also plays havoc with budgeting and planning. A small BIA school that thought it had three employees with a cumulative wage of $30,000 may find that its new employees now must earn $40,000 or $50,000.

In addition to that, the BIA School Boards,which have been given a greatly increased role in employee selection in many communities,now have to give first consideration to those who have been bumped.

The Indian Self-Determination Act repeatedly states that no tribe should or will be pressured into contracting. That's not altogether true. There are some inherent results of the Act, one of which is that those who don't contract get the employees from those who do.

Some would attempt to answer this dilemma by describing it as a matter that can only be settled by internal Indian politics. If a tribal contractor deliberately discourages, turns loose, or fires his own tribal employees, they will catch up with him sooner or later.

It's interesting reasoning, but it's incomplete. It assumes that there is a non-political government process that extends to the tribes. If tribes use this in such a way as to disrupt their own political process, other Indians will set it right.

That's incomplete. The government act in approving the initial contract is, by definition, a political act. They are, in a very real sense, siding

with the employers against the employees, with the more powerful against the less powerful, and with their immediate constituents against anyone else who might be out there. The government contracting officer vouches for government approval when he signs a contract. If he says he doesn't because Indian self-determination removes that question, then there is no need for local officials. Checks could be mailed directly from the U.S. Treasury to all tribes on the basis of some need formula and they could take it from there - the ultimate revenue sharing.

In fact, that's a helpful analogy. For the Bureau of Indian Affairs to say that all questions will be handled by Indian politics is comparable to the U.S. Government distributing all funds from all Departments through non-categorical revenue sharing without guidelines or restrictions. They could then hope the local National Guards would be able to handle the local political problems raised by those local people.

There is an unwirtten rule of history that says the further removed people are from decision makers, the easier it will be to arrive at some all emcompassing decision as to what's best for them.

The language of the Indian Self-Determiantion Act is a monument to this principle.

"Since Indians are the ones who are receiving the services, they are the ones who best know how to deliver them."

The notion of competing interests can be set aside for this group at the end of the telescope. There is a reason why the Department of Agriculture runs extension services instead of contracting them all to local farmers. To the extent that farmers believe that extension services work, they support their presence.

Throughout its history, the Bureau of Indian Affairs, when challenged,

has reacted with a humility that is sometimes earned and sometimes excessive. In the 1860's and 1870's the BIA went so far as to allow various religious denominations to parcel out reservations among themselves and appoint BIA agency personnel, including the superintendent.

While it is true that a number of years or decades in the service delivery field does not guarantee competence, it is also true that inexperience does not guarantee success. Many tribes understand this clearly. They are saying to the Bureau, "If you haven't figured out how to provide education services in 200 years, how are we going to figure it out in two?"

Again the BIA dilemma. They are supposed to use their years of experience to give the right kind of technical assistance, but it's hard to feel comfortable accepting help from someone who is assuring you that you can do it better than he can.

"Indians should deliver services to Indians," is an interesting and essential ideological question, but it leaves unanswered the compelling practical questions of how services will be designed to meet well defined needs, to say nothing of who defines those needs.

In summary, the two most common divergent responses to the BIA contracting invitations are: (1) Why not? We can't do any worse than they did. (2) This is a trap. They're deliberately pushing us into a trap. Do they really believe we can do it better than they can? If they do believe that, why are they still around? To help out with the transition? They've been saying that for 150 years.

IV. Central Office Resistance to a Formula

For at least the past ten years, the BIA has been pressed by the General Accounting Office and various legislative and oversight committee to

establish a rational funding formula for their schools.

As the years have passed and the pressure has increased, the Bureau has continued to resist the establishment of a formula. Why?

First, it's important to remember that this is not a question of the BIA once having a formula and then neglecting it. Their schools have always been funded in a capricious manner, but their own description would not use the word capricious; they would say, "based on need."

This raises two questions: Whose need and how is it determined? It is not easy to get anything approaching concurrence on either question.

It would be a mistake to single out BIA schools as the sole recipients of this flexible funding. The BIA does not use funding formulas for any of their own programs except Johnson O'Malley, and that was imposed from the outside.

It would also be a mistake to assume that the BIA is incapable of administering a funding formula. They have no particular problem with ESEA Title I or any other pass through funds that come with formulas attached. They do know what a formula looks like. They may not have any in-house expertise for setting up their own, but they let out technical assistance contracts on a regular basis.

Another possibility is that they've wanted to comply, but they've simply been dragging their feet. That's possible, but it doesn't seem likely it could go on for so long and under so much pressure unless they've actively resisted it as they've resisted all other formulas.

One simple and plausible explanation is that they don't want one. If they could be assured that every school would gain money from a formula, they would be more receptive to it, but regardless of formula recommendations, no

such assurance exists.

They do not control their own budget process. They not only have to settle conflicts among their own competing needs, they have to get through the Department of Interior restrictions and budget decisions. Then, of course, they have to deal with the Office of Management and Budget and the Appropriations Committees.

In the Fall of 1977, the BIA Education Division asked for 19 million for Special Education. By the time it got through the Department of Interior, it was reduced to zero.

This means that a formula runs the risk of making some people who are now happy, unhappy. One could challenge this by saying that would be countered because the people with increased funding would balance it out. It doesn't work that way.

The BIA has considerable experience handling low expectation or no expectation. They are far less comfortable with sudden and aggressive dissatisfaction.

It is also reasonable to assume that the funding levels are not really arbitrary. The active and relatively successful politicians are more apt to have the higher funding levels. They are not the ones you want to make mad, particularly when experience tells you the schools with lower funding have already accepted or felt forced to accept their fate.

When the BIA Director of Education in 1977 first set out to argue for an equitable funding formula, he made a tactical error.

He talked about it to any and all BIA School groups and virtually assured opposition from the most powerful among them. He should have started with a select group - the major victims.

But even if everyone were assured funding at higher levels, the BIA

might resist it. Considerable political questions might be involved in the establishment of a formula, but once set in place it removes the kind of "flexibility" that makes politics work.

The BIA has to worry about Indian opinion in much the same way the Labor Department has to worry about the AFL-CIO. They don't always have to give satisfaction to everyone in the ranks, but they have to respond to pressure from the most influential leadership.

Consider the BIA history with Johnson O'Malley. Before there was a formula, the National Johnson O'Malley Director was not only well known, he was regularly invited to meetings all over the country. Now the same people who worried about him no longer rmember his name.

Discretionary funds produce competition and considerable action. Formula grants are cut and dried.

This, of course, is not limited to Indian education. Compare the activity surrounding the National Bilingual Office with the Imapct Aid Office. This applies even when Impact Aid puts ten times as much money into a school district as Title VII.

Assuming that all BIA Officials wanted to have an absolutely fair distribution of BIA School money, unless they had no interest in political leverage at all, they would still want it known that they and not some computer in New Jersey had arrived at that fair decision.

The slogan behind all this is: Let's keep our options open so we can make our decisions in human terms.

Who is going to come out for making decisions in inhuman terms?

In 1971, the BIA contracted for a study that would both examine the existing funding patterns and establish an equitable formula.

When the study was complete, the BIA Central Office,or rather the Indian Education Resource Center of the Central Office,rewrote the plan in

such a way as to remove any real formula distribution. The entire plan vaporized, and the old system or non-system continued.

Why? There does not seem to be one clear answer. Part of it is that the Bureau of Indian Affairs resists outside advice even when the outside advice comes from one of their consultant contracts.

Given the history and nature of the BIA, this is not surprising. Consultant contracts are agreed to by one, two, or at the most a handful of people. Because of the fragmentation within the Bureau, these contracts are not received as 'our' contracts but rather as 'their' contracts, that is, whoever gave the approval. The contractors themselves quickly become aware of this and frequently tend to identify strongly with their sponsors. They see that the BIA is not a team in any sense of the word. It is more like an entire baseball system with competing teams, minor leagues, and constantly shifting expansion teams, and there are always some individuals within the BIA who don't even own a uniform.

The very term BIA Central Office can be misleading when it comes to education. Central Office suggests central authority and central policy, and although that exists in the Washington Office, it does not rest in the education division.

The Director of Education supervises his immediate staff and has control over some discretionary funds. This is a floating fund of unpredictable, soft money.

In addition to the six (at a recent count) professionals in the Washington Office, the Director also supervises an additional 40-45 professionals who work in the Indian Education Resource Center in Albuquerque. This is a theoretical supervision at best. Not only are they 2,000 miles away, they have a staff that dwarfs the Directors'. There is an extensive history of

antagonism between the Washington education office and the Albuquerque education office.

If the Director of Education wishes to do anything at all within any of the BIA Area Offices or agencies, he must rely on persuasion or borrow (with permission) the authority of the Assistant Secretary.

Education directors for the past fifteen years have fallen into two categories (1) Those who were apparently content with their minimal authority and (2) Those who were actively discontent with their minimal authority.

Either way, their life expectancy on the job compares unfavorably with that of tail gunners in World War II, and for similar reasons.

It is fair to assume that every Commissioner, and now every Assistant Secretary, honestly wants a Director of Education who will do a good job and straighten out Indian education once and for all.

All have resisted turning over any of their line authority to a director, but all have hoped their particular director would be able to exert enough sense of authority to get things done without stirring up large scale agitation against the Commissioner.

Education issues are frequently ideological and often fuzzy. They inspire agressive certainty and clamorous doubt. Since no one knows what works for sure with what group of kids, all questions are up for grabs. The result of all this is that while education groups may not be the most effective advocacy groups, they are usually the most annoying.

No one understands this better than the people who run the BIA. Some have wanted directors who would effect change quietly through careful fence mending and the slow building of reliable support bases. Others have looked for more aggressive, innovative leadership. So far neither kind of choice has worked to the mutual satisfaction of the Director of Education and the

person with the real authority.

It's hard to see how it could. The Director of Education must try to act without authority to do so, and the Commissioner (Assistant Secretary) holds the authority and tries to stay out of education entanglements.

These two sets of individuals (and it hasn't made any great difference who they've been) have responded to the structual confusion by keeping things loose. They've said, in effect, that they would simply take care of the future problems as they came up.

In some cases each side has imagined potential benefits for themselves coming out of the confusion and resultant vacuum.

In other cases, the two individuals inherited each other and had no agreements, vague or otherwise.

It does seem a natural law of management that a confused organizational structure requires more clear and specific working agreements, not more confusion. (This will be discussed further in the section on recommendations).

Relations between the Area Offices and Central Office have been discussed in some detail, but it's worth reconstructing from the perspective of the Washington education office.

If the Director of Education accepts without question the current decentralization of education programs, and the diffused authority of the status quo, the Washington office is in the position of an in-house education magazine as far as the Area Offices are concerned.

Perhaps a better analogy would be a network television vice president recommending standards or choices for local programming.

The local stations are free to ignore all advice, but they listen attentively to the advice because even though they will do what works for them, they have to be concerned about the possibilties of some undefined

future network pressure.

Whatever the lack of authority in the field, the Director is the ranking education person in the BIA headquarter's office. No one in the field can be sure how much influence the Director has or doesn't have with those Washington people who have real influence over questions such as policy, funding, and promotions.

Area Directors of Education conscientiously attend meetings called by the Director, and they rarely disagree openly with either the content or style of the presentation. They don't have to.

They don't need the Director's ongoing support, but open antagonism is pointless and possibly hazardous in the future.

The bond between the Area Director for Education is considerably stronger than that between them (collectively or individually) and the Washington Director. They, actually run the programs. Any Director of Education either knows this or learns it quickly. The Area people can often feel like an immovable force.

If Washington wants to make changes,it must either convince the Area offices that they should also support them, or it must manipulate, bypass, or run over them. None of these techniques has worked very well for reasons described in detail throughout this paper.

There is one other way to effect change. The Assistant Secretary can honestly agree with the change. He can then tell the Areas about the proposed changes, get an honest and open set of comments, critiques and alternatives from them, and he can then act.

The most difficult question is why this hasn't happened. There's no certain answer. Commissioners have consistently been reluctant to step into the middle of the highly charged education disputes. They've been equally

reluctant to give well defined authority to their Directors for fear they will create such high level controversy the Commissioner will have no choice but to become involved.

It can be certified as an authentic dilemma, but whoever runs the BIA will either have to make one of those two difficult choices or follow all predecessors and decide by default on business as usual.

The Assistant Secretary appointed in the Fall of 1977 has tackled the discretionary power issue head on. He is against the use of it in Area Offices, but proposes to move it directly under this control.

In nine pages of recommendations submitted to the Secretary of Interior's Task Force on BIA reorganization he never refers to any kind of funding formula, and education is mentioned only once. He does, however, clearly challenge the Area Offices. The following is quoted directly from the Assistant Secretary's report.

Top Management Leadership of the Bureau.

For too long the Bureau has neglected the "care and feeding" of its most valuable resource: its own people -- and this is particularly true at the top. We need to state clearly and explicitly what knowledges, skills, abilities, and personal characteristics -- such as empathy with Indian culture and values, and commitment to Bureau programs -- are needed to qualify for the top leadership positions in the Bureau; and then establish a better system to give top management the scope and opportunity to perform and be evaluated, and, if unable to measure up, to be replaced by others. The principles of the impending executive service changes, which the Administration contemplates governmentwide, are the ones to which I am referring. This, for the Bureau, requires:

- A complete reassessment of the position structure and grade level at the top, so that the complexities and difficulties of the work are recognized by an appropriate number of supergrade positions -- which I believe is a much larger number than at present; and
- A comprehensive review of the need for Schedule C positions in the Bureau, to ensure that top management consists of that cadre of leaders committed to the policies, directions, and changes of the Administration, the Department and Bureau leadership. I believe this calls for an expansion of the present number of Schedule C Positions, to include all key Central Office Managers as well as all Area Directors.

BIA action this year is further complicated by H.R. 15 (in particular Title XI) and the President's Reorganization Plan.

H.R. 15 requires formula funding that would go directly to BIA School Boards which would also be given policy authority for the first time. It would also give the BIA Education Director line authority over all BIA education personnel, including all those who now answer to agencies and Area Offices.

The BIA response to this has been predictable. They oppose legislative changes on questions that can be dealt with administratively. They don't tell Congress how much if any of the changes they are planning to make administratively, but they don't have to.

They can and have said that they are studying all the questions raised and will let Congress know their recommendations. Congress can either wait, which it has been inclined to do in the past, or act on the legislation.

One section of the BIA reorganization cannot be handled except through legislation, and that is the portion that would remove all BIA education personnel from Civil Service status while retaining the individual rights and retirement benefits.

Of all the sections in this title of the bill, this Civil Service change is by far the most urgently needed from the standpoint of BIA School Board Members. It is not uncommon now to have vacant classrooms because it sometimes takes as long as six months to fill a vacancy through the present cumbersome system.

The President's reorganization plan of April, 1978 threatens to override all other questions because it recommends that all BIA education be moved to the new Department of Education.

Initially the White House Staff recommended that all BIA education, except for the schools, be moved to the new department. The quickest, loudest, and most noticeable Indian response to this was decisive and absolute. Do not move anything out of the BIA, because if you do it will fragment the Bureau. The BIA will then shrink in other areas and that will erode all trust responsibility. That will then lead to an end of all federal responsibility and with it the end of reservations and tribes.

The White House apparently responded to this non-negotiating stance by recommending that everything be moved. They are said to believe that the BIA conned or manipulated all those tribes and Indian individuals into taking such a rigid stance. The BIA might have tried to do just that, and they may have succeeded with some tribes and individuals, but the tribal response was a predictable one, even if the BIA had not made a single move.

For many years tribal groups and individuals have really believed that anything taken from the BIA,or any new service established outside the

Bureau carries a potential threat to the maintenance of the trust responsibility. That comes partially from an incomplete understanding of history: the trust responsibility is, and has always been, a federal responsibility and has always been delegated through departments of government other than the Bureau of Indian Affairs. But another part of the concern reflects nothing more than a basic understanding of political symbiosis. Tribes feel they need the Bureau above all other federal agencies because the Bureau of Indian Affairs needs Indians to justify their existence. Other federal agencies have other groups, other clients. The BIA has only one focus, however confused, blurry, or distorted it might seem at times.

The White House does not seem to have noticed that none of the protests praised the BIA's performance and they have threatened to take a fall back, or perhaps a fall on position. If they get too much opposition from the tribes, they are threatening to leave everything where it is and the way it is. Indians can have their BIA, and lie in their rumpled bed forever.

To a sympathetic outsider, the BIA would seem to be in a terrible spot right now. They are being reorganized from within and without. They are catching hell from Capitol Hill and from some of their brother and sister federal departments.

But this sympathy shows a lack of understanding of BIA history. They have always been reprimanded, threatened, and reorganized. Dealing with transcendent issues can be considerably easier than answering specific questions. Their present position may or may not be comfortable depending on individual temperments within the Bureau. It is familiar.

IV. Recommendations:

It is essential that the momentum given the Bureau of Indian Affairs by all present confusion not be allowed to drown out all the potentially

manageable issues.

Their present message is a simple one which they have long since memorized:

Let's not quibble over details at a time like this, the only real issue is survival. We can worry about the other questions later.

Indians respond to this message, not because they're stupid, but because they believe it. Some Indians, maybe most Indians, believe that only a well fed BIA stands between themselves and disaster. But that doesn't mean they are not concerned with the quality of BIA services; they are just not talking about it at the moment. At the same time there are other Indians directly involved with the questions of how BIA services work who do want to talk about it.

The White House, Congress and other federal agencies have to rid themselves once and for all of the idea that there is such a thing as <u>the</u> Indian opinion.

A congressional assistant once asked a group of Indians, "Why can't you people agree? After all, there are only 800,000 of you."

Why can't all members of Congress agree?

It is essential for Washington policy makers and enforcers to understand that there are different and competing Indian interests just as there are with any other group.

What any Indian or any Indian group has to say on any issue should be measured through the perspective of that person and group and through simple common sense.

If an Indian group with exceptionally high funding for its school argues for maintaining the present system, that proves nothing but enlightened and appropriate self-interest on their part.

It is an obvious mistake to give equal weight to all Indian testimony, regardless of the degree of vested interest. Testimony from people directly involved with Bureau Schools should be given considerably more weight than testimony from an Inter-tribal School Board handpicked by the Area Offices.

On the issue of formula funding, there can't be any crucial testimony unless all the schools who are hurt by the present system know they are hurt and have some idea how they can be helped.

Each individual contract school must be given an opportunity to describe its special needs or that school will react from the defensive posture in which it's been placed and challenge the very idea of a formula. They need real assurance that it won't be used against them. That consultation can best be done through its central advocacy agency, the Coalition of Indian Controlled School Boards. That doesn't mean there will be some kind on consensus from all these schools if only the questions are presented carefully and properly. Some may prefer to take their chances with the present political process, but as stated earlier, why should there be an Indian consensus? Once informed, there's nothing reprehensible about any group opting for what they feel will benefit them.

The charge behind the funding formula though, is the development of an equitable national policy. That doesn't mean one should expect people who might lose through equity to approve it in the name of altruistic idealism.

Indian communities, unlike other minority communities, are essentially conservative in the root meaning of the word. Their most active political pressure will be brought to bear when the status quo is threatened. There's one simple reason for this. The Indian population is 1/2 of 1% of the population, but Indian land accounts for more than 4% of all the land in the country. Half of all energy resources west of the Mississippi are on Indian land. There

is a great deal to hold on to.

Like other conservative communities, Indian tribes react strongly in response to broad policy or ideological questions.

If service need and service delivery questions are to be involved, it is necessary first to inform, then to organize, then to listen to those most actively involved in those specific issues.

During a recent conference on Education for Handicapped Indian children, tribal representatives with broad interests in education among other issues wanted to focus the discussion on the President's reorganization plan. Indians from the special education field, on the other hand, kept to the program need issue. Whatever their other feelings might have been as to an appropriate place for Indian education, they understood that whoever might be doing it in the future, they would need a workable plan to provide funding and services.

There is no reason whatsoever why several kinds and levels of Indian discussion can't go on simultaneously.

There is presently no established channel for those individuals and groups on the receiving end to make themselves heard. They need to be heard. Their statements are generally very clear and they will successfully resist distractions and detours. They may not know how to make it all work, but that's not their job. They are an essential participant in any real dialogue because they are eloquent on the subject of what doesn't work or can't work.

This is a particularly important time to listen. If the BIA escapes all need for reform because of an administration's impatient response to a theoretical objection from tribes, the Bureau may feel a false or worse, a real sense of security that will encourage a dysfunctional caution.

The issue has not been so much what kinds of reforms the BIA might

make, but whether or not the institution is capable of making any major adaptation at all.

Outsiders viewing the BIA education system frequently see an organization with unusual possibilities.

It is a self-contained, closed educational system that happens to span the country. This gives it the potential for a high degree of centralization when that's called for and the potential for a remarkable degree of flexibility.

Many of the most serious institutional barriers are missing: conflict between state and local school board policy, funding inequities based on variations in local wealth, conflicts surrounding integration policies and conflicts between strong teacher's unions and local boards.

Few, if any, of these structural benefits have been used to advantage. Each Area Office has created its own administrative system. The most centralized activity is the hiring of teachers through the Civil Service system, the one part of the educational process that no school has ever asked to have taken out of their hands.

Instead of taking advantage of the closed aspect of the system and setting standards appropriate to their unique situation, the BIA has taken the position that they will follow the lead of whatever states the schools happen to be in.

From the funding point of view the same system has managed to create inequities that can match those of the most patently unjust state and local systems.

If one looks into the history of how it all went awry, it is essential to look not simply at BIA education but the entire BIA fragmentation process. No one ever actively decided that BIA education should operate as it now does.

In the name of administrative convenience, education followed all the other BIA functions.

No one in the BIA or any other government organization would argue that all systems should have identical structures regardless of their purpose.

The education question has to be artificially separated from all other BIA issues for the sake of planning. What is the most effective way to run a federal school system for Indians. In what way's is centralization helpful and for what purposes? To what extent should individual schools operate autonomously? When should the Bureau combine strong central control and regional diffusion?

BIA education is obviously not a world unto itself. It must intersect with and relate to other BIA functions. The problem has been that all the interconnections are now thrown into all discussions from the beginning and goals for education are buried before they're born.

Outside critics of the BIA have frequently helped muddle the issues. They look at the BIA schools, note the obvious failures and demand instant quality, or at least a dramatic improvement by a year from next week.

Because the BIA's long established response to criticism from a higher authority is one of apology, they agree to meet whatever reform schedule is set before them. Several years ago they agreed to bring all BIA schools up to the national average on standardized test scores. They didn't, but considering how far they had to go, it would have been a miracle if they had,

One other problem that has plagued the BIA has been the belief that they could find the right Director of Education. They are looking for someone with remarkable political and administrative skills who is also an Indian, an educational expert, and an intellectual who can relate to Congress, other BIA officials, BIA field staff, and all other Indians.

Assuming such a person exists, he or she will also have to accept a position offering great responsibility with minimal authority to carry it out.

The real question that faces the BIA and the best possible leadership is not one of reforming itself to satisfy all its critics; it's the step before that. The BIA needs to set up a structure and a system in which reform can take place.

Every BIA reorganization plan, and there is no shortage of them, folds education into the middle of all other service and trust responsibility issues. The plans also drag interminably both because of changes in BIA administration and a seemingly excessive need to restructure without offending too many people.

Change will always be offensive to those adversely affected by it and there has never been such a thing as a bureaucratic consensus.

The people running the BIA are going to have to adopt a plan for operating education programs based on existing information and advice from inside and outside the BIA.

They are then going to have to say: "We believe this will work. We're responsible for it. If it needs changes later, we'll make them."

BIA veterans say with considerable evidence to back it up, that they are forever being scolded, prodded, attacked, chewed up and shoved around. They are, and it's become a way of life.

But in the long run, and given administration reorganization plans it may be in the short run, any decisive action would be an improvement. Genuine disagreement has possibilities, endless and meaningless agreement results in nothing but mutual frustration and continuing isolation.

In 1934, when the BIA was busily transferring education functions to

the public schools, he stated clearly that the public schools needed the benefit of the BIA's experience with Indian children. That did not work because the BIA had no jurisdictional policy relationship with the public schools, and they were unable to establish a de facto policy relationship.

Since the BIA has spent all but the past two years claiming they were going out of business, presentations or summations of their experience have been on existent.

Outside reform demands on the BIA range from the need adopt new Ukranian techniques to a diverse program of everyone's idea of traditional Indian education. The nodding response to these ideas puts the BIA in the strange position of forever looking for square A.

Whatever else the BIA education system might be, it is not in its infancy. What has it learned to do and what has it learned to avoid? What has been relatively successful? Which of their experiments were disasters?

The BIA has not demonstrated the kind of collective intellectual confidence that has made such a summation possible, but they also haven't been required to do so.

Challenges to the Bureau have been primarily full of condemnation. It would be both interesting and helpful if someone with authority would say to the BIA - "Take six months, sum up your experience. Where are you? Where are you planning to go?"

This report would have to include data, hard, soft, and questionable, but most of all it should require ideas for Indian education based on experience.

If this report contains only education ideas without the administrative structure to make them possible, it will have no meaning.

Again, a proposed funding formula can be an excellent example of how

this process should or should not be followed.

Based on recent history, the BIA's least encouraging response would be an unqualified acceptance of every part of every recommendation. That would demonstrate a lack of any involvement with the question.

Conversely, an encouraging response would be diverse and selective, i.e., "this section is a good idea but won't work in the BIA because .... It could be adapted and it would then look like this .... This section is not realistic because .... We don't want to do this because ...."

There should be visible signs of an exchange complete with sparks, controversy, and the light and heat that accompany any significant change.

Connected with the funding issues, but also related to all other education issues in the BIA is the question of the present BIA school boards.

Establishing advisory boards for off-reservation boarding schools has always presented a problem. A board composed of local residents will be able to stay on top of the situation at the school, at least theoretically, but they will usually not have any children attending the school. Conversely, a board composed solely of parents of students attending the school will invariably live long distances away. They can be and are flown in for periodic meetings to discuss school policy, but their decisions are abstract. They are simply too far away to develop any essential kind of involvement in the school.

For years BIA school boards have been involved in various kinds of training sessions to discuss their role as school board members. Invariably, the discussion gets to the question of their powers as school board members. The answer in legal terms is always the same. None. Their power is purely advisory, or,said another way, they have as much power as they can exert. If the local school administrators feel obliged, for whatever reason, to answer

to the school boards, they have some power.

Given their non-existent legal status, it is remarkable that BIA school board members have continued to demonstrate a high level of interest over the years. In the case of the off-reservation boarding schools, it is reasonable to attribute this to the history and reputation of boarding schools as a whole. The parents feel a need with or without describable power to have at least a sense of what is going on at that school.

In the case of the on-reservation boarding schools and day schools, it can also be attributed to a genuine interest and it seems always related to the fact that BIA schools, whatever their legal status, feel as if they at least have the potential to be affected, changed, and influenced. They are considerably smaller than most of the public schools reservation students go to; they are located in the Indian community, and they have usually been around for a long enough time to feel like a part of the history of the community.

An assumption frequently made in recent years is that all Indian parents and groups with an unusually high level of concern for their children have contracted for their own schools or will do so shortly. There is no solid basis for this assumption. Many regular BIA school board members go to meetings as often as their counterparts, and they know as much or more about both the policy and the day to day life of the school. If they have not contracted, it's not because they don't agree on the destination (parental and community influence) but because they think it is best reached through another route.

Most local BIA school administrators sit down with their advisory boards every year and go over both the plans and the budgets for next year. One problem, of course, is that the advisory board does not have the clear

authority to approve or disapprove the program or budget, but even if they did, they would have another more serious problem. On a local level, no one knows what the next budget will be. In fact, no one knows whether or not the teaching staff they plan to use in next year's budget will show up in the Fall. Teachers are not required to sign contracts until they actually start work.

The BIA education reorganization plan recommended by the last BIA Director of Education, Dr. William Demmert, would have brought considerable change to the BIA school boards, (1) Funding under a predictable formula would go directly to the local BIA school boards. They would be given policy control over the school. Teachers would be hired locally. In effect, they would have the authority school board members in contract schools now have. While these changes no longer seem to be under consideration as BIA policy, they are incorporated into Title XI of H.R. 15.

There has been no official or even unofficial statement from the BIA on these proposals. That is, they have not been openly rejected as unsound and they have not been underlined in whole or in part for further discussion. They are a victim of passive euthanasia.

One thing is certain, and that is that most school board members knew they had a dead issue on their hands before they had any idea what the live one looked like. Many school board members who were opposed to the plan did not know about the component parts. In some cases, they were objecting to the process, the suddeness and broad sweeping elements of the plan. In other cases the first information about the plan came from the Area offices, or from the local agencies. Since both the Area offices and the agencies would have their present authority sharply curtailed if the reorganization went into effect, they could hardly be expected to present it with disinterested

objectivity.

The central office, which had originated the plan, had neither the personnel nor the time to introduce the plan themselves, but even if they had, it would have been a quick run through followed by a series of group discussions hosted by the agency and area staff. Nothing but a determined backing by the local school boards could have withstood the challenges to it from those who were most challenged by it.

One great convenience for the Area offices was that they did not have to say they were opposed to the plan because it hurt them. They could and did maintain an atmosphere of disinterest by objecting to the implied diminishment of tribal authority. That argument went something like this: "If local school boards control their own funding, and they make all the policy decisions, where does that leave the tribal authority?" The extension of this argument was that the reorganization would totally subvert the Indian Self-Determination Act. A bizarre but frequent variation on this was that the reorganization was deliberately planned to destroy the Indian Self-Determination Act.

This argument was effective both with a number of tribal and inter-tribal councils and with individuals and groups who consistently take the position that all authority for all things Indians should rest with the tribal councils.

It's a difficult argument to credit. The Indian Self-Determination Act says that tribes may contract for any BIA services, including education, and nothing in the proposed plan gave local school boards authority to contradict this. The plan was designed only for those schools that had not been contracted and therefore remained under BIA control. The plan neither reinforced nor challenged PL 93-638.

It's ironic that BIA officials argued that it diluted the Indian Self-Determination Act. Compared to what? The present BIA school funding doesn't go through a tribal council anywhere in the country, and no tribal council so much as reviews the policy or hiring for BIA schools.

The argument worked,not because tribal councils imagined they were losing some present control,but because they want tribal council control, authority, or at least pass through powers built into every new statute, regulation, or policy.

Whether or not the Bureau of Indian Affairs believes in the expansion of tribal authority in all areas and on all issues, it has been several years since they have taken the position that they openly opposed to. That means if there is going to be any kind of increase in Indian authority on reservations, the BIA will come down on the side of running it through tribal councils, or they will once it's become an open question. In this case, it certainly became an open question. When tribal apprehension about possible loss didn't bring it out, the Area offices and agencies did.

It's quite possible that the BIA can defend its position in relation to tribal councils on the simple and clear grounds that it's the job of the Bureau to serve the tribes and the best practical legal and political definition of a tribe is the tribal council. Ergo, their wishes should come first.

There are two counter arguments to this that come quickly to mind. The first is long range and a serious question of political philosophy. If the government can define the full scope of tribal government, they can also take it away. Actual authority in an Indian community or any other community is not granted by Washington. It may be temporarily enhanced or diminished by Washington, but it exists through a series of formal and informal understandings and contracts and negotiations that are present only on a community

level. Authority exists because it is recognized as authority and given authority by the people who are supposed to be subject to it.

The Federal government could pass a law tomorrow abolishing all policy and decision making bodies on all reservations, and apart from producing a great deal of chaos, it would probably change things very little. No tribal government can actually go to another existing Indian group on its own reservation and tell it that it no longer exists because a federal law says so. It can carry out the federal law if it has the local internal political power to do. Some tribal councils are more interested in the accrual of authority than they are in the dynamics of authority and they imagine that a federal declaration will give them what they can't get for themselves. Unless and until the Bureau of Indian Affairs can resist the obviously beneficial power exchange in all this, the illusion will grow. It can backfire. Eventually tribal councils will begin to blame the Bureau of Indian Affairs any time their own tribal members stop them from doing what they consider objectionable.

Taking the question away from recent political habit, why should all education programs run through one central government authority? PL 874 (Impact Aid) payments are made directly to school districts, but this is not interpreted to mean that the Federal government believes State Education Departments should not have authority. Other federal programs (Handicapped Act is a prominent example) give the State Education Agencies a prominent monitoring and enforcement role. So does ESEA Title I. An obvious difference between these two kinds of laws is that PL 874 money is general operating money and the others are categorical. Why should Indian basic operating money go through a central agency (the Tribal Council)? Maybe it should, but the argument for it needs to be made.

Schools are, by definition, usually local institutions. When they are not, as in the case of State University Systems, they are in some measure, run by a centralized authority, but there are still local decisions including the development of a budget and hiring.

Someone, in this case the BIA, should have to prove that education interests are best served away from the local community. Consistent political authority is a phrase sometimes used, but its meaning is elusive. The late Mayor Daley, who was never accused of being non-political, made a conscious effort to keep his own city politics out of the Chicago school system. Some have expressed this by declaring that schools should be above politics. There's another, more realistic way to say this, and that is that schools have enough politics of their own without becoming enmeshed in anyone else's political system.

The 1977/78 U.S. Government Manual states:

> "The principal objectives of the Bureau are to actively encourage and train Indian and Alaska Native people to manage their own affairs under the trust relationship to the Federal Government; to facilitate, with maximum involvement of Indian and Alaska Native people, full development of their human and natural resource potentials; to mobilize all public and private aids to the advancement of Indian and Alaska Native people for use by them; and to utilize the skill and capabilities of Indian and Alaska Native people in the direction and management of programs for their benefit."

This statement refers only to "Indian and Alaska Native people." That does not automatically narrow itself to tribal governments unless government policy specifically says it does on individual laws and issues.

The objective also talks about the full development of human and

natural resource potential.

Individuals who have served on BIA school boards for years without defined authority and without compensation have certainly demonstrated the development of human potential.

There is the substantial evidence of history that education works more effectively when the community being educated has a clear stake in the outcome. This sense of investment will always be diminished when the education system is run by an absentee administrator.

The assumption that school board members will feel frustrated by their school being administered through an agency twelve miles away but satisfied with a tribal administration one hundred fifty miles away has no basis in logic or past experience.

It is difficult to quarrel with the BIA's stated objectives. It is unlikely they will ever be achieved until the BIA participates actively, openly and honestly in policy discussions that will determine how this is to be done.

In 1978,points for sophisticated realism are given to anyone who assumes that intellectual honesty and political activity are mutually exclusive.

No one certifiably sane expects the Bureau of Indian Affairs to suddenly become a place where only truth is uttered, everywhere and to everyone. On the other hand, no one but the immediate beneficiaries of the present pervasive elusiveness can seriously believe there will be any progress in a milieu where a "probably not," feels like a diplomatic triumph.

The Bureau of Indian Affairs has many devoted, competent and intelligent employees with thousands of years of cumulative experiences. What do they think? What are they for? What are they against?

The fact that we don't know is at the heart of the BIA resistance to change. There is a vacuum, the absence of an atmosphere in which change can seriously be considered.